



## ECCNET ITEM CERTIFICATION SERVICE AGREEMENT

Clicking "I Agree" and accepting the Services to which this ECCnet Item Certification Service Agreement applies constitutes acceptance and full agreement to the following terms and conditions.

This ECCnet Item Certification Service Agreement (**Agreement**) is entered into between GS1 Canada (**GS1**) and the entity identified via online registration (**Company**). GS1 and Company are collectively referred to as the "Parties" or, when used individually, a "Party". All capitalized terms used in this Agreement that are not defined in the text of the Agreement will have the meaning set forth in Attachment A. This Agreement shall be effective as of the date on which Company is authenticated to receive Services (**Effective Date**). GS1 is a neutral, not-for-profit organization dedicated to the development and implementation of standards-based, global supply chain services and solutions.

In furtherance of its mission, GS1 offers Company access to and use of certain technology and services that: connect Subscribers, and enable them to manage Product Information; enable Product Information to be distributed to Subscribers, third parties and, ultimately, consumers (**ECCnet Item Certification Service**). Subject to the Company's consent on a product-by-product basis, the information may be repurposed by GS1 or its subcontractors for compilation and aggregation with other products within a database, which may be then licenced in aggregate to consumers or third parties for a fee.

A. The "**Services**" to be provided to Company pursuant to this Agreement are described in Attachment B. The Company agrees to use the Services available through the ECCnet Item Certification Service solely for the purposes set out in this Agreement.

B. **DISCLAIMER OF WARRANTIES. THE COMPANY AGREES THAT THE SERVICES AGREEMENT IS NOT SUBJECT TO ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, REGARDING ANY MATTER – INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY FURTHER AGREES THAT (i) THE ECCNET ITEM CERTIFICATION SERVICE AND ANY COMPONENT THEREOF OR INFORMATION OR DATA DERIVED THEREFROM, AND (ii) THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND THAT NEITHER GS1 NOR ANY OF ITS SUPPLIERS WARRANTS THE ACCURACY AND TIMELINESS OF ANY INFORMATION COLLECTED OR GATHERED BY GS1 OR ITS SUPPLIERS, NOR THAT THE SERVICE WILL BE UNINTERRUPTED OR OTHERWISE ERROR FREE.**



## I. RESPONSIBILITIES OF COMPANY AS A SUBSCRIBER

A. **Primary Contact.** Company agrees to assign an authorized employee to act as the Primary Contact for the ECCnet Item Certification Service.

B. **Participation.** Company acknowledges that its participation in the ECCnet Item Certification Service is contingent on the Company having first registered its GS1 Licence or Global Location Number (GLN) with GS1.

C. **Authorization.** Company acknowledges that the Authorized Primary Contact is solely responsible to set up the Company's authorized users (**Authorized Users**) in the ECCnet Item Certification Service.

D. **Contact Information.** Company agrees to keep all Company-related and user-related contact information up-to-date.

E. **Training.** Company agrees to ensure that its Authorized Users attend annual training and certification for the ECCnet Item Certification Service, which is provided by GS1 at no cost to the Company.

F. **Terms and Conditions of Trade.** Company agrees to support trading partners' adoption of the ECCnet Item Certification Service by incorporating the ECCnet Item Certification Service into their standard terms and conditions of trade.

G. **Standards Development.** As may be requested by GS1 from time to time, Company agrees to participate on committees to develop standards and technical specifications relating to user requirements for the sector.

H. **Business Processes.** Company agrees to integrate the ECCnet Item Certification Service into internal business processes and respective systems.

I. **Approval and Certification.** Company agrees to review any Product Information, and confirm the accuracy of all such information presented to it, whether such errors are caused by Company, or by GS1 or its Suppliers. GS1 shall present the Product Information gathered by GS1 or its Suppliers, or provided by the Company, for a final review and certification prior to posting that Product Information for general use within the ECCnet Item Certification Service. Company shall certify that the Product Information is correct before GS1 posts such Product Information in this manner.

## II. TERM/TERMINATION

A. **Term.** The initial term of this Agreement shall be for 12 months commencing on the Effective Date of this Agreement (**Initial Term**). The Initial Term shall expire on the first day of the month following the anniversary date of the Effective Date, except if renewed or terminated in accordance with this Agreement. THIS AGREEMENT WILL AUTOMATICALLY RENEW FOR SUCCESSIVE ANNUAL TERMS (each a **Renewal Term**) BEGINNING ON EACH ANNIVERSARY OF THE EXPIRATION OF THE INITIAL TERM UNLESS EITHER PARTY SENDS WRITTEN NOTICE TO THE OTHER PARTY OF ITS INTENTION NOT TO RENEW AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE THEN CURRENT TERM.

B. **Termination.** This Agreement shall terminate immediately upon: (i) a material breach by a Party to perform its obligations under this Agreement (which, in the case of Company, shall include, among other things, failure to make full payments when due), where the breach continues for a period of thirty (30) days following written notice thereof by the other Party, (ii) the bankruptcy or insolvency of a Party (in which event no notice shall be required), (iii) upon sixty (60) days notice of either Party to the other Party, provided that there will be no refunds in respect of Fees already paid if Subscriber terminates the Agreement in this manner, or (iv) Company fails to maintain its GS1 subscription in good standing (which includes proper registration and timely payment of any applicable GS1 fees).

## III. FEES

A. **Annual Service Fees.** Service fees are payable annually and are based upon Company's service options and annual sales volume. Company represents and warrants that the annual sales volume it reports is complete and accurate (**Reported Revenues**), and it also agrees at the time of each Renewal Term to update the amount of the Reported Revenues in the event there is any material change to such amount. GS1 will review the fee schedule annually and will make such changes to the schedule as may be necessary. In consideration of the performance of Services, Company agrees to pay the Fees in accordance with the annual fee schedule and the terms and conditions set forth in Attachments A, B, and C. Such fees shall be net of all taxes that GS1 is required by law to withhold and remit to a taxing authority.

B. **Expenses.** Expenses incurred by Company associated with the installation, implementation, termination and receipt of the Services shall be the responsibility of Company. This includes, but is not



limited to, costs incurred for the cleanup of production data that is in error due to Company. Company shall pay all such expenses as invoiced by GS1.

C. **Invoicing.** For the Initial Term, Fees shall be due and payable upon the Effective Date of this Agreement. For all Renewal Terms, Company will be invoiced for all Fees and expenses, if any, and Company shall pay such invoice within thirty (30) days after receipt of the invoice.

D. **Taxes.** Company is responsible for and shall pay all taxes levied or applicable in respect of its receipt of the Services, including, without limitation, any sales, services or value added taxes that GS1 must collect in respect of the Fees.

#### IV. LICENCE AGREEMENT

A. **Licence Granted.** Subject to the terms and conditions of this Agreement, GS1 grants to Company and Company accepts on behalf of itself and its Authorized Users, a non-exclusive, non-transferable, non-assignable limited licence to use and access the ECCnet Item Certification Service and those portions of the GS1 Proprietary Information required for Company's and its Authorized Users' use of the ECCnet Item Certification Service. This licence shall include a limited sublicense to all third-party software and applications employed or otherwise embedded in the ECCnet Item Certification Service, but only to the extent GS1 is authorized to licence such third-party software and applications and only in accordance with the terms under which such authorization is expressly granted. Company may not remarket any portion of the Services provided under this Agreement, or make any portion of the Service available to any party without the prior written consent of GS1.

B. **No Infringement of Third-Party Intellectual Property Rights.** GS1 represents and warrants that, based upon representations, warranties and indemnities provided by third-party software and service providers, which have developed and implemented the ECCnet Item Certification Service on behalf of GS1, GS1 has no knowledge that the ECCnet Item Certification Service or any component thereof violates or infringes upon the intellectual property rights of any other party. The Company shall not use the Service or permit the Service to be used in any manner or for any purpose which is illegal or unlawful; fraudulent or misleading; in violation of GS1 or any third-party rights, to include Intellectual Property Rights, or otherwise damaging GS1 or any third -party; obscene, harassing or distressing; disruptive of or harmful to or that otherwise abuses or misuses network resources or the internet or any connected resources; or in breach of any security measure.



**C. Infringement Indemnification.** Subject to the limitations in Article VII.A, below, GS1 agrees to indemnify and hold Company harmless from and against any damages, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from any judgment or proceeding in which it is determined that the ECCnet Item Certification Service or any component thereof violates or infringes any patent, copyright, trademark, trade name, trade secret, or other intellectual property right of any third party provided that: (i) Company shall promptly provide written notice thereof and reasonable cooperation, information, and assistance in connection therewith, and (ii) GS1 shall have sole control and authority with respect to the defense, settlement, or compromise thereof. If any component of the ECCnet Item Certification Service becomes or, in GS1's opinion, is likely to become the subject of any claim, proceeding or an injunction preventing its use as contemplated herein, GS1 may, at its option (1) procure for Company the right to continue using the ECCnet Item Certification Service, (2) replace or modify such component of the ECCnet Item Certification Service so that it becomes non-infringing without substantially compromising its functionality or, if (1) and (2) are not reasonably available to GS1 then (3) terminate Company's licence to the allegedly infringing component of the ECCnet Item Certification Service.

**D. Licence Granted by Company.** Company grants GS1, to the extent necessary to facilitate Company's participation in the ECCnet Item Certification Service, a non-exclusive, worldwide right and licence to use Company's Product Information, name, logos, trademarks, service marks, copyrightable material, Company Proprietary Information and any other applicable intellectual property (including, but not limited to packaging design and copy, sales promotion text, shelf logistics models and know-how, and any Product Information) to carry out the communications and information gathering purposes inherent in the ECCnet Item Certification Service, and otherwise to display and use such information within the ECCnet Item Certification Service. Company grants GS1 the right to display Company's name and logo on the login page of ECCnet Item Certification Service. Such licence shall terminate with respect to GS1 upon Company's withdrawal as a Company to the Item Certification Service. Subject to the Company's consent on a product-by-product basis, the Product Information only may be repurposed by GS1 or its subcontractors for compilation and aggregation with other products within a database, which may be then licenced in aggregate to consumers or third parties for a fee by GS1.

**E. Reservation of Rights.** Nothing in this Agreement shall affect a transfer of copyright, trademark or any other applicable intellectual property rights from GS1 to Company, or from Company to GS1 (other than as provided for in this Article IV). Company shall under no circumstances remove or otherwise alter any GS1 copyright, trademark, service mark or other proprietary notices on any complete or partial copies of



the GS1 Proprietary Information or the ECCnet Item Certification Service. GS1 shall under no circumstances remove or otherwise alter any Company copyright, trademark, service mark or other proprietary notices on any complete or partial copies of Company Proprietary information. Each Party agrees that it shall not use any of the names, logos, service marks or trademarks of the other Party in any media releases, advertising, sales, marketing materials or other publicity matters, without the other Party's prior written consent.

**F. ECCnet Item Certification Service Availability.** The ECCnet Item Certification Service shall be generally available for use on a 7-day per week, 24-hour per day basis, excepting those times necessary to perform regularly scheduled and emergency maintenance. GS1 shall endeavor to conduct maintenance at times that are intended to minimize the impact to Subscribers of the ECCnet Item Certification Service. Support resources will be available as described in Attachment A.

**G. Company Back Up System.** In recognition of the possibility that the ECCnet Item Certification Service may not be available at all times to communicate Product Information to other Subscribers, Company will maintain processes and procedures that are sufficient to meet its obligations at law without the use of the ECCnet Item Certification Service. In the event that the unavailability of the ECCnet Item Certification Service continues for more than eight hours, Company will utilize such procedures to transmit the applicable Product Information to the intended recipients, including other Subscribers as required.

## V. CONFIDENTIALITY

**A. Confidentiality.** Neither Party will disclose or make available any of the other Party's Proprietary Information in any form to any person, except to bona fide employees, officers, directors, or agents whose access is necessary for the Party to exercise its rights hereunder, but in such event, only in order to facilitate Company's participation in the ECCnet Item Certification Service and subject in all instances to the provisions of Article V.E. below. Subject to the limitations in Article VII.A below, each Party shall indemnify the other from and against a breach of such obligation of confidentiality. Company shall not copy, translate, disassemble, decompile, create, nor attempt to create the source code from the object code of the GS1 Proprietary Information or ECCnet Item Certification Service licenced hereunder, or use it to create a derivative work, unless authorized in writing by GS1.

**B. Exceptions.** Notwithstanding the foregoing, nothing herein shall prevent either Party from disclosing the other Party's Proprietary Information upon the disclosing Party establishing that the other Party's Proprietary Information: (i) has become part of the public domain other than by acts or omissions of the



disclosing Party, its employees, agents or contractors; (ii) was lawfully in the possession of the disclosing Party at the time of disclosure to it and was not acquired by it directly or indirectly from the other Party; (iii) was received after disclosure to it by a third party who had a lawful right to disclose such information to it; (iv) was independently developed by the disclosing Party without knowledge or use of the other Party's proprietary information; or (v) is required to be disclosed pursuant to an order of a court of competent jurisdiction, provided the Party whose information is to be disclosed has the opportunity to seek a protective order.

**C. Standard of Protection; Injunctive Relief.** Each Party acknowledges that any unauthorized disclosure of the other Party's Proprietary Information may cause immediate and irreparable harm and, therefore, agrees (i) to take the same precautions to protect the other Party's Proprietary Information from unauthorized disclosure as it takes with respect to its own Proprietary Information, but in no event with less than reasonable care, and (ii) that the other Party shall be entitled to seek injunctive relief and other equitable remedies for a breach of its obligations hereunder in addition to any other rights or remedies to which it may be entitled.

**D. Return of Materials.** Upon termination of this Agreement, (i) Company shall immediately cease use of the ECCnet Item Certification Service (and access by Company and its Authorized Users to the ECCnet Item Certification Service may be blocked), and (ii) each Party shall immediately cease use of the other Party's Proprietary Information and shall, within thirty (30) days after any such termination, deliver to the other Party, at its expense or, at the other Party's request, destroy all copies of the other Party's Proprietary Information in any form then in its possession or control, excepting copies that have been archived, which shall remain securely stored, and an officer of such Party shall provide the other with written acknowledgement thereof.

**E. Designation of Authorized Users & Recipients by Company; Loading and Accuracy of Product Information.** Company acknowledges and agrees that it is solely responsible for: 1) the designation of authorized representatives who can publish and access the ECCnet Item Certification Service on behalf of Company in accordance with usage restrictions set forth in Attachment A (Authorized Users); 2) identify that other Subscribers may receive Product Information within the GS1 network, and, on a product-by-product basis, opt out of the aggregation and publishing to the cloud of the Product Information to be made available to third parties or consumers (any of the foregoing, the **Recipients**); 3) provide accurate contact information for all Authorized Users and update such information upon any changes in the roles or authority of such Users and in no event less regularly than upon each Renewal Term; 4) the loading,



accuracy, completeness and frequency of all Product Information provided by Company or its Authorized Users into the ECCnet Item Certification Service pursuant to this Agreement, and any Product Information within the ECCnet Item Certification Service that has been certified as correct in accordance with the process set out above in Section 1.J. GS1 will use commercially reasonable efforts to authenticate the Authorized Users directly with Company at or around the issuance of that User's ID and password. In the event that GS1 discovers an error in any Authorized User or Recipient information provided by or on behalf of Company, GS1 will notify Company of the error but will not be responsible for modifying the information. If Company discovers an error in any data or Product Information provided by Company or its Authorized User via the ECCnet Item Certification Service, Company shall promptly correct such Product Information and load such updated Product Information into the ECCnet Item Certification Service. In addition, Company acknowledges that, although GS1 will use commercially reasonable security procedures to secure the Product Information reasonably within its control, GS1 has no control over, and is not responsible for, the security or integrity of the Product Information during and following its transmission to third parties.

**F. Maintenance of Confidentiality.** GS1 agrees that it will not disclose, provide, or make available any competitively sensitive information of Company (as shall be identified as such by Company to GS1) to any Subscriber that Company has not designated as a Recipient. Company acknowledges that Product Information is not competitively sensitive information.

**G. The Global GS1 Electronic Party Information Registry (GEPIR).** As a subscriber of the Global GS1 organization, GS1 Canada participates in the Global GS1 Electronic Party Information Registry (GEPIR) that allows an online search of Global Trade Item Numbers (GTINs), GLNs, Container Codes and basic company information. In response to a search request through GEPIR, GS1 Canada will release subscriber profile information such as: company name, address, telephone, fax, email address, GTINs, GLNs and container codes

## VI. OWNERSHIP OF MATERIALS

**A. Acknowledgement of Title.** Notwithstanding the grant of a licence to the GS1 Proprietary Information and ECCnet Item Certification Service, as provided in Article III. above, Company acknowledges that, as between GS1 and Company, GS1 is the owner of the GS1 Proprietary Information and the ECCnet Item Certification Service.





**B. Ownership of Company's and Other Subscriber's Proprietary Information.** Company acknowledges that, as between GS1 and Company, Company owns all of Company's Proprietary Information. Company also acknowledges that, as between GS1, Company, and other Subscribers, each Subscriber respectively owns all of its own Proprietary Information. The Company consents and warrants that its employees consent to the processing of data including any Personal Data and further consents to transfer of data and Personal Data outside Canada for the purposes of delivery of the Service, if such is determined to be necessary by GS1 in its sole discretion.

**C. Further Assurances.** GS1 and Company hereby agree to execute and deliver all agreements and to take such further action, without any additional compensation, to confirm the other's ownership rights in and title to the property described above.

## VII. LIABILITY

**A. Limitation of Liability.** NEITHER GS1, ITS SUPPLIERS, NOR COMPANY SHALL BE LIABLE FOR, AND THE MEASURE OF DAMAGES SHALL NOT INCLUDE, ANY AMOUNTS FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE TOTAL LIABILITY OF GS1, AND ITS SUPPLIERS UNDER THIS AGREEMENT, WHETHER ON ACCOUNT OF ACTIONS OR CLAIMS BASED IN CONTRACT, EQUITY, TORT OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY COMPANY IN THE TWELVE MONTHS PRIOR TO THE EVENT (OR THE LAST EVENT IN THE CASE OF A SEQUENCE OF EVENTS) THAT GIVES RISES TO ANY LIABILITY. GS1 AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY ERRORS IN PRODUCT INFORMATION, HOWSOEVER CAUSED.

**B. Duty to Mitigate.** Each Party has a duty to mitigate the damages that would otherwise be recoverable from the other pursuant to this Agreement by taking appropriate and reasonable actions to reduce or limit the amount of such damages.

**C. Force Majeure.** Neither Party shall be liable to the other Party (other than Company's obligation to pay Fees for Services already provided under this Agreement to Company) for any default, delay or hindrance in the performance of any of its obligations under this Agreement to the extent such default, delay or hindrance is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, riots, terrorism, revolutions in any country, strikes or labor difficulties or any other similar cause beyond its reasonable control (each a "**Force Majeure Event**"). In the event of a Force Majeure Event, the parties

shall be excused from further performance of the obligation(s) for as long as such Force Majeure Event prevails and the parties continue to use commercially reasonable efforts to recommence performance to the extent possible. If either party is so prevented, hindered or delayed in its performance, the non-performing party shall immediately notify the other party.

**D. Indemnity.** The Company will indemnify and save harmless GS1, its Suppliers, and their respective employees, advisors, agents and representatives (the “**GS1 Indemnified Parties**”), to the fullest extent permitted by law, from and against any Claims that may be suffered or incurred by any one or more of the GS1 Indemnified Parties arising as a result of, or in connection with, any of the following (except to the extent suffered or incurred as a result of or in connection with the wilful misconduct, fraud or gross negligence of the GS1 Indemnified Parties): (a) the death of or bodily injury to any third party or any employee of GS1 to the extent caused by the gross negligence or wilful misconduct of the Company, or arising out of errors in the Product Information; and (b) the loss of or damages to any tangible personal or real property of GS1 or any tangible personal or real property of any third party to the extent caused by the gross negligence or wilful misconduct of the Company.

## VIII. GENERAL

**A. Relationship of Parties.** In furnishing Services to Company hereunder, GS1 is acting as an independent contractor, and GS1 has the sole right and obligation to supervise, manage, contract, subcontract, direct, procure, perform or cause to be performed, all work to be performed by GS1 under this Agreement. Neither party is an agent for the other and has no authority to represent or bind the other party as to any matters, except as expressly authorized in this Agreement.

**B. Entire Agreement; Amendment; Severability.** This Agreement, including any of its Attachments, sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, representations, warranties, promises, covenants, commitments or undertaking, whether written or oral, except as herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the Party. If any term or provision of this Agreement is found to be invalid or unenforceable, it shall not affect the validity and enforceability of the other terms or provisions of this Agreement.

**C. Survival.** The provisions of Articles V, VI and VIII shall survive termination or expiration of this Agreement.

**D. Waiver of Default; Cumulative Remedies.** A delay or omission by either Party hereto to exercise any right or power under this Agreement shall not be construed to be a waiver thereof. A waiver by either of the Parties of any of the covenants to be performed by the other or any breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All remedies provided for in this Agreement shall be cumulative and in addition to (and not in lieu of) any other remedies available to either Party at law, in equity or otherwise.

**E. Binding Nature; Assignment.** This Agreement will be binding on the Parties. Neither Party may assign this Agreement without the prior written consent of the other.

**F. Governing Law; Venue.** This Agreement shall in all respects be governed by and construed exclusively in accordance with the laws of the Province of Ontario, Canada and the parties submit to the exclusive jurisdiction of the Superior Court of Justice of Ontario in the City of Toronto in relation to all matters pertaining to or arising out of this Agreement.

**G. Export.** The Parties acknowledge that certain software and technical data to be provided hereunder and certain transactions hereunder may be subject to export controls under the laws and regulations of the United States, Canada and other countries. No Party shall export or re-export any such items or any direct product thereof or undertake any transaction in violation of any such laws or regulations.

**H. Notices.** Any notices required to be given under this Agreement may be delivered electronically by email to GS1 at [info@gs1ca.org](mailto:info@gs1ca.org) and to the Company at the email address provided through the registration process and, unless rejected as undeliverable, shall be deemed delivered when it enters the information system of the recipient.

**J. Due Authority; Binding Agreement.** Each Party represents and warrants to the other Party that (i) it has full power and authority to enter into this Agreement and to perform its respective obligations herein, and (ii) this Agreement represents a valid and legally binding obligation of such party and is enforceable against such party in accordance with its terms.

**K. Amendment of Services Agreement and Changes to Fees.** GS1 Canada may amend this Services Agreement or the Fees charged for the services periodically by notice to Company. If Company continues to use the ECCnet Item Certification Service following the expiration of thirty (30) days from the date of such notice, Company is deemed to have accepted the new Fees and the amendment of this Services



Agreement. All fees exclude applicable federal and provincial taxes (which, as specified in Clause III A, must be paid by Company).



## ATTACHMENT A – DEFINITIONS

### A. DEFINITIONS

“**Company Proprietary Information**” means information that is created, owned by, or licenced to Company or information in the possession of GS1 that is treated by Company as proprietary and, in any case, which is not otherwise in the public domain.

“**Documentation**” means all documentation (in any medium or form) with respect to the ECCnet Item Certification Service that is delivered to Company under this Agreement, including, but not limited to, manuals, training materials, program listings, data models, flow charts, logic diagrams, functional specifications, instructions, and complete or partial copies of the foregoing.

“**Fees**” means the fees and other charges set out in Attachment C.

“**GS1 Proprietary Information**” means (i) all software relating to the ECCnet Item Certification Service, Documentation, Program Concepts, Third-Party Databases and any other third-party software licenced with or as part of the ECCnet Item Certification Service, and benchmark results; and (ii) information reasonably identifiable as the confidential and proprietary information of GS1, which is not otherwise in the public domain.

“**ECCnet Item Certification Service**” includes, for greater certainty, the total server and network equipment, storage systems, software, interfaces, documentation, network interfaces, and systems management processes which comprise the applications infrastructure for an internet based communications system for which the Services are being provided hereunder, and which, among other things, facilitates a Subscriber’s participation in ECCnet Item Certification Service as defined in the preamble of the Agreement, as applicable using the Services. ECCnet Item Certification Service shall exclude all hardware, application software and documentation independently owned or licenced by Subscribers by which Subscriber interfaces to ECCnet Item Certification Service.

“**Product Information**” means the Product Information and all other information collected under the ECCnet Item Certification Service by GS1 or its Suppliers relating to Company’s products, including but not limited to product size, shipping information, ordering information, hazardous materials information, images of the product’s labeling or packaging, and nutrition and/or ingredient information, and claims



relating to the company's products or the performance or efficacy of the products, for any products loaded into the ECCnet Item Certification Service.

**“Program Concepts”** means the concepts, techniques, ideas and know-how embodied and expressed in any computer programs or modules included in the ECCnet Item Certification Service, including software structure, sequence and organization, but excluding any modifications which are expressly paid for by Company.

**“Proprietary Information”** means the GS1 Proprietary Information, the Company Proprietary Information, or the proprietary data, content and information of a third-party Subscriber, as the context dictates.

**“Subscriber”** means a member in good standing of GS1 who has accepted and agreed to the terms of this Services Agreement permitting access to and use of the ECCnet Item Certification Service.

**“Third-party Databases”** means any third-party proprietary database software that is licenced through GS1 to Company pursuant to the terms of this Agreement.

## ATTACHMENT B – DESCRIPTION OF SERVICES

**1. Services Defined.** For the Term of the Agreement and subject to the terms and conditions of the Agreement (including the usage restrictions set forth in Paragraph 2 below), Company and its Authorized Users shall have the right to use and access the ECCnet Item Certification Service and GS1 Proprietary Information and communicate its Product Information to other Subscribers. Company shall also receive the following Support resources to resolve Incidents relating to the Services from GS1. Incidents will be categorized by GS1, acting reasonably, having regard to the description below. An “Incident” is any error or defect where the ECCnet Item Certification Service does not perform in accordance with the documentation describing the ECCnet Item Certification Service provided by GS1.

| Priority | Description  | Hours  |
|----------|--|--|
| 1        | Technical problem that hinders Company’s use of a commercial application.  | Monday through Friday;<br>8:00 a.m. to 5:30 p.m. EST |
| 2        | A request by Company for information regarding a commercial application, including registration or new user inquiries. | Monday through Friday;<br>8:00 a.m. to 5:30 p.m. EST |

**2. Usage Restrictions; Audit Rights.** Company is solely responsible for designating the role and number of its Authorized Users. Such designation is binding on the Company and the Authorized Users have authority to review and correct Product Information, and certify that Product Information is complete and correct under the process set out in Section 1.J. of the Agreement until such designation is revoked and a replacement Authorized User designated. Company acknowledges and agrees that sharing or unauthorized use of User ID or password is strictly prohibited. GS1 shall have the right to audit Company’s compliance with the terms and conditions of this Agreement. If requested, Company will certify its compliance with this provision. GS1 shall have the right, no more than once annually, at its own expense, to perform an inspection of Company’s relevant records and systems solely for the purpose of ensuring compliance with the requirements of this Agreement. Company agrees to reasonably cooperate with any such inspection and GS1 agrees that it shall conduct its inspection rights with minimal



interference to Company's business operations during Company's normal business hours with not less than thirty (30) days prior notice. Should the audit determine that Company has not paid the Fees applicable to its actual usage of the Services or the Item Certification Service, Company shall immediately pay the difference and shall also pay GS1's reasonable expenses relating to the audit.

**3. Enhanced Functionality:** Company has the right to use the current version of the ECCnet Item Certification Service but GS1 expressly reserves the right to modify or amend the current software of the ECCnet Item Certification Service by introducing modifications, changes, enhancements, new versions and new releases to all or part of the ECCnet Item Certification Service from time to time. For any material functionality that is not within the current ECCnet Item Certification Service application (**Additional Functionality**), Company will have the right to use Additional Functionality only after executing an order form and paying an additional fee, if any, based on the then-current standard fee schedule for such Additional Functionality. In any event, a Company that uses any Additional Functionality shall be deemed to agree to pay such fees attributable to such Additional Functionality.





## ATTACHMENT C – SERVICE FEES

The fees for the services are subscription based, enabling GS1 to manage the ECCnet Item Certification Service on a cost-recovery basis. The below Fee Schedule for the ECCnet Item Certification Service outlines the subscription-based fee structure.

By clicking “I Agree” and accepting the Services, Company understands and agrees to pay the Annual Service Fees based on Company’s Reported Revenues according to the terms and conditions set forth in the fee schedule that can be found at <http://www.gs1ca.org/EICS/fees.asp>.